

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MCKINLEY PIERCE ATKINS,

Plaintiff,

v.

E. ROCHA, et al.,

Defendants.

No. 1:20-cv-00193-NONE-JLT (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 28)

Plaintiff McKinley Pierce Atkins is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 11, 2021, the assigned magistrate judge filed a screening order, finding that plaintiff's first amended complaint states cognizable claims of deliberate indifference to serious medical needs against Defendants Rios and De Lussa, but that its remaining claims are not cognizable. (Doc. No. 24). The magistrate judge directed plaintiff to file a second amended complaint curing the deficiencies in his pleading or to notify the court of his desire to proceed only on the claims found cognizable. (*Id.* at 7-8.) On July 1, 2021, plaintiff filed a notice that he "wish[es] to proceed only on the deliberate indifference claims against Rios & De Lussa, dismiss the remaining claims, and dismiss Defendant Rocha. (Doc. No. 25.)

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1 Therefore, on July 6, 2021, the magistrate judge filed findings and recommendations,
2 recommending that (1) Defendant Rocha be dismissed and (2) the claims in plaintiff's first
3 amended complaint be dismissed, except for its claims of deliberate indifference against
4 Defendants Rios and De Lussa. (Doc. No. 28.) The findings and recommendations were served
5 on plaintiff and provided him 14 days to file objections thereto. (*Id.* at 2.) Plaintiff has not filed
6 any objections, and the time to do so has passed.

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
8 *de novo* review of this case. Having carefully reviewed the file, the court finds the findings and
9 recommendations to be supported by the record and proper analysis.

10 Accordingly,

- 11 1. The findings and recommendations issued on July 6, 2021 (Doc. No. 28) are
12 adopted in full;
- 13 2. Defendant Rocha is dismissed;
- 14 3. The claims in plaintiff's first amended complaint are dismissed, except for its
15 claims of deliberate indifference to serious medical needs against Defendants Rios
16 and De Lussa, pursuant to 42 U.S.C. § 1983;
- 17 4. The Clerk of the Court is directed to rename this case "*Atkins v. Rios, et al.*"; and,
- 18 5. This case is referred back to the assigned magistrate judge for further proceedings.

19 IT IS SO ORDERED.

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21 Dated: August 23, 2021


UNITED STATES DISTRICT JUDGE